

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FRONTIER AIRLINES, INC.,

Plaintiff,

-v-

AMCK AVIATION HOLDINGS IRELAND LTD. ET AL.,

Defendants.

22 Civ. 2943 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

An initial pretrial conference is scheduled in the above-captioned case for August 10, 2023, at 11:30 a.m. The Court has stated that, at the conference, it would assess the continuing need for the preliminary injunction put in place on July 18, 2023, including whether defendants have proposed a financial guarantee sufficient to safeguard the interests of plaintiff Frontier Airlines, Inc. in a recovery in the litigation before Judge Stanton that, if put in place, would eliminate any contractual justification for Frontier to withhold consent to the transactions at issue. *See* Dkt. 110-1 (7/18/23 Tr.) at 21-22.

Defendants yesterday moved to alter or amend the Court's July 18, 2023 order putting in place the preliminary injunction, on two grounds. *See* Dkt. 109. First, in what effectively was a motion for reconsideration, defendants contend that the Court errantly analyzed the contracts at issue and thereby overestimated Frontier's likelihood of success on the merits in this litigation. *Id.* at 6-12. Second, in a narrower argument, defendants state that they have now offered Frontier a guarantee that provides the necessary financial safeguards. *Id.* at 12-13. In a letter filed today, Frontier counters that it needs more time to respond to the first of these arguments. *See* Dkt. 112.

On preliminary review, defendants' argument for reconsideration is colorable. But the issues are complex, and the timing of defendants' filing does not give Frontier sufficient time to brief them, or the Court sufficient time to assess them, for such to be productively addressed at the August 10 conference. However, the Court will take up the proposed guarantee at the conference, and is cautiously optimistic that a guarantee can be approved then that would vitiate the need for any other relief. The Court asks Frontier, by Monday, August 7, 2023, to submit its response as to the proposed guarantee; and asks counsel for both sides, by Tuesday, August 8, 2023, to submit a proposed joint order, premised on the Court's approval of a guarantee at the conference, that would effectuate such relief.

Separately, the Court directs Frontier, by August 16, 2023, to respond to defendants' submission with respect to the likelihood of success on the merits. Any response by defendants is due by August 23, 2023.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: August 3, 2023
New York, New York